



House of Representatives

File No. 883

General Assembly

January Session, 2015

(Reprint of File No. 178)

Substitute House Bill No. 6801
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 22, 2015

**AN ACT CONCERNING CROWDFUNDING, PROHIBITED ACTS OF
MORTGAGE SERVICERS, SMALL BUSINESS LENDING,
ALTERNATIVE FORMS OF IDENTIFICATION FOR OPENING BANK
ACCOUNTS, REVERSE MORTGAGES, DISCLOSURES FOR PREPAID
CARDS, SUCCESSORS IN INTEREST IN FORECLOSED PROPERTY
AND THE PREVENTION OF FRAUD IN DEPOSIT ACCOUNTS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (*Effective July 1, 2015*) The Banking Commissioner shall,
2 within available appropriations, study legislation in other states
3 concerning statutory restrictions on crowdfunding to provide small
4 businesses and start-ups with more funding options. Such study shall
5 include, but not be limited to, an overview of such legislation and
6 recommendations for the implementation of such legislation in
7 Connecticut. On or before January 1, 2016, the commissioner shall
8 report, in accordance with the provisions of section 11-4a of the general
9 statutes, the results of such study to the joint standing committees of
10 the General Assembly having cognizance of matters relating to
11 banking and commerce.

12 Sec. 2. Section 36a-719h of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective October 1, 2015*):

14 No mortgage servicer shall:

15 (1) Directly or indirectly employ any scheme, device or artifice to
16 defraud or mislead mortgagors or mortgagees or to defraud any
17 person;

18 (2) Engage in any unfair or deceptive practice toward any person or
19 misrepresent or omit any material information in connection with the
20 servicing of the residential mortgage loan, including, but not limited
21 to, misrepresenting the amount, nature or terms of any fee or payment
22 due or claimed to be due on a residential mortgage loan, the terms and
23 conditions of the servicing agreement or the mortgagor's obligations
24 under the residential mortgage loan;

25 (3) Obtain property by fraud or misrepresentation;

26 (4) [~~Knowingly misapply or recklessly apply~~] Apply residential
27 mortgage loan payments recklessly or knowingly misapply such
28 payments to the outstanding balance of a residential mortgage loan;

29 (5) [~~Knowingly misapply or recklessly apply~~] Apply payments
30 recklessly or knowingly misapply such payments to escrow accounts;

31 (6) Place hazard, homeowner's or flood insurance on the mortgaged
32 property when the mortgage servicer knows or [~~has reason to know~~]
33 should have known that the mortgagor has an effective policy for such
34 insurance;

35 (7) Fail to comply with section 49-10a;

36 (8) Knowingly or recklessly provide inaccurate information to a
37 credit bureau [, thereby harming a mortgagor's creditworthiness] that
38 results in harm to a mortgagor's creditworthiness;

39 (9) Fail to report both the favorable and unfavorable payment

40 history of the mortgagor to a nationally recognized consumer credit
41 bureau at least annually if the mortgage servicer regularly reports
42 information to a credit bureau;

43 (10) Collect private mortgage insurance beyond the date for which
44 private mortgage insurance is required;

45 (11) Fail to issue a release of mortgage in accordance with section
46 49-8;

47 (12) Fail to provide written notice to a mortgagor upon taking action
48 to place hazard, homeowner's or flood insurance on the mortgaged
49 property, including a clear and conspicuous statement of the
50 procedures by which the mortgagor may demonstrate that he or she
51 has the required insurance coverage and by which the mortgage
52 servicer shall terminate the insurance coverage placed by it and refund
53 or cancel any insurance premiums and related fees paid by or charged
54 to the mortgagor;

55 (13) Place hazard, homeowner's or flood insurance on a mortgaged
56 property, or require a mortgagor to obtain or maintain such insurance,
57 in excess of the replacement cost of the improvements on the
58 mortgaged property as established by the property insurer;

59 (14) Fail to provide to the mortgagor a refund of unearned
60 premiums paid by a mortgagor or charged to the mortgagor for
61 hazard, homeowner's or flood insurance placed by a mortgagee or the
62 mortgage servicer if the mortgagor provides reasonable proof that the
63 mortgagor has obtained coverage such that the forced placement
64 insurance is no longer necessary and the property is insured. If the
65 mortgagor provides reasonable proof that no lapse in coverage
66 occurred such that the forced placement was not necessary, the
67 mortgage servicer shall promptly refund the entire premium;

68 (15) Require any amount of funds to be remitted by means more
69 costly to the mortgagor than a bank or certified check or attorney's
70 check from an attorney's account to be paid by the mortgagor;

71 (16) Refuse to communicate with an authorized representative of the
72 mortgagor who provides a written authorization signed by the
73 mortgagor, provided the mortgage servicer may adopt procedures
74 reasonably related to verifying that the representative is in fact
75 authorized to act on behalf of the mortgagor;

76 (17) Conduct any business covered by sections 36a-715 to 36a-719l,
77 inclusive, without holding a valid license as required under said
78 sections, or assist or aid and abet any person in the conduct of business
79 without a valid license as required under this title;

80 (18) Negligently make any false statement or knowingly and
81 wilfully make any omission of a material fact in connection with any
82 information or reports filed with a governmental agency or the system
83 or in connection with any investigation conducted by the Banking
84 Commissioner or another governmental agency; or

85 (19) Collect, charge, attempt to collect or charge or use or propose
86 any agreement purporting to collect or charge any fee prohibited by
87 sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b.

88 Sec. 3. (*Effective July 1, 2015*) The Department of Banking, in
89 consultation with the Department of Economic and Community
90 Development, shall, within available appropriations, conduct a study
91 of small business lending in the state. Such study shall include, but not
92 be limited to, the feasibility of: (1) Establishing a state-run business and
93 industrial development corporation; (2) creating mechanisms to
94 increase small business lending to promote and finance small
95 businesses; and (3) forming a partnership between Connecticut banks
96 and credit unions and any state agency, quasi-public agency or not-for-
97 profit organization incorporated in this state to increase access to credit
98 for small businesses in underserved communities or those with high
99 unemployment. The Banking Commissioner shall report, in
100 accordance with the provisions of section 11-4a of the general statutes,
101 the findings of such study to the joint standing committees of the
102 General Assembly having cognizance of matters relating to banking

103 and finance on or before January 1, 2016.

104 Sec. 4. (*Effective July 1, 2015*) The Department of Banking shall,
105 within available appropriations, conduct a study of the feasibility of (1)
106 allowing Connecticut banks and Connecticut credit unions to accept
107 alternative forms of identification for persons without a Social Security
108 number, such as an Individual Taxpayer Identification Number issued
109 by the Internal Revenue Service, state-issued forms of identification or
110 foreign documents, for purposes of providing such persons with the
111 ability to open accounts at such banks or credit unions, and (2)
112 allowing the Banking Commissioner to consider Connecticut banks or
113 credit unions offering accounts to those persons without a Social
114 Security number as a factor when assessing the record of performance
115 of such banks or credit unions pursuant to section 36a-32 of the general
116 statutes. The Banking Commissioner shall report, in accordance with
117 the provisions of section 11-4a of the general statutes, the findings of
118 such study to the joint standing committee of the General Assembly
119 having cognizance of matters relating to banking on or before January
120 1, 2016.

121 Sec. 5. (NEW) (*Effective from passage*) On or before January 1, 2016,
122 the Department of Banking shall develop a brochure written in plain
123 language and in an easily readable and understandable format,
124 containing examples of verification procedures at Connecticut banks
125 and Connecticut credit unions for customers seeking to open an
126 account without a Social Security number. Such brochure shall include,
127 but not be limited to: (1) A list of Connecticut banks and credit unions
128 accepting alternative forms of identification for persons without a
129 Social Security number, such as an Individual Taxpayer Identification
130 Number issued by the Internal Revenue Service, state-issued forms of
131 identification or foreign documents, provided such bank or credit
132 union agrees to be included in such list, and (2) such other summary
133 information on the verification procedures for each Connecticut bank
134 and Connecticut credit union as the department deems necessary. The
135 department may distribute such brochure to each Connecticut bank
136 and Connecticut credit union and shall post such brochure on the

137 department's Internet web site. The department shall, within available
138 appropriations, prepare appropriate multilingual versions of such
139 brochure for use by Spanish-speaking and other non-English-speaking
140 customers.

141 Sec. 6. (NEW) (*Effective July 1, 2016*) Any entity, including, but not
142 limited to, any Connecticut bank or Connecticut credit union, prior to
143 accepting a final and complete application for a reverse annuity
144 mortgage loan or assessing any fees for such mortgage, shall:

145 (1) (A) Inform the prospective applicant of the counseling
146 requirement in subdivision (2) of this subsection, and (B) provide the
147 prospective applicant with a list of at least three independent housing
148 counseling agencies approved by the United States Department of
149 Housing and Urban Development to engage in reverse annuity
150 mortgage loan counseling, as provided in 24 CFR 206.300. No such
151 counseling agency shall receive any compensation, either directly or
152 indirectly, from the lender or from any other person or entity involved
153 in originating or servicing the loan;

154 (2) Receive a signed certification from the prospective applicant or
155 the prospective applicant's authorized representative that the applicant
156 has received counseling from an independent housing counseling
157 agency, as described in subdivision (1) of this subsection;

158 (3) Provide the prospective applicant, prior to his or her counseling
159 session with the independent agency counselor, with a reverse annuity
160 mortgage loan worksheet containing issues that the prospective
161 applicant is advised to consider and discuss with the counselor; and

162 (4) Receive a certification from the prospective applicant or the
163 prospective applicant's authorized representative that either: (A) The
164 reverse annuity mortgage loan origination, or (B) the counseling
165 session required by subdivision (2) of this subsection was conducted in
166 person. Any counseling not conducted in person shall be conducted by
167 telephone. The certification shall be signed by the prospective
168 applicant and either the independent agency counselor or the reverse

169 annuity mortgage loan originator and shall include the date of the
170 meeting, and the name, address and telephone number of both the
171 prospective applicant and either the counselor or the loan originator.
172 The lender shall maintain the certification in an accurate, reproducible
173 and accessible format for the term of the reverse annuity mortgage
174 loan.

175 Sec. 7. Section 42-460a of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective October 1, 2015*):

177 (a) As used in this section:

178 (1) "General-use prepaid card" has the same meaning given to that
179 term in 12 CFR 1005.20(a)(3), as from time to time amended, but shall
180 not include a linked prepaid card or any card, code or other device
181 identified in 12 CFR 1005.20(b); and

182 (2) "Linked prepaid card" means a general-use prepaid card that
183 enables the purchaser of or individual who increases or reloads funds
184 onto the card, code or device (A) to receive back the remaining
185 unexpended balance and the accrued interest earned on the
186 unexpended balance on such card, code or device as of the date of
187 expiration of such card, code or device by way of a financial account
188 that is linked to the card, code or device; (B) to set the expiration date
189 on such card, code or device at not less than ninety days from the date
190 of purchase of or increasing or reloading of funds onto such card, code
191 or device, for the purpose of receiving back the unexpended balance
192 and accrued interest earned on the unexpended balance on such card,
193 code or device in an expedited manner; and (C) to transfer the
194 unexpended balance on such card, code or device to a bank offering a
195 higher yield on and full insurance from the Federal Deposit Insurance
196 Corporation for the transferred balance until the consumer or recipient
197 of such card, code or device utilizes the unexpended balance or until
198 the date of expiration on such card, code or device has passed,
199 provided such purchaser or individual has a financial account that is
200 linked to such card, code or device.

201 (b) A general-use prepaid card shall not include an expiration date
202 relative to the underlying funds that are redeemable through the use of
203 the applicable card, code or device. Notwithstanding the provisions of
204 this subsection, a general-use prepaid card may include an expiration
205 date with regard to such card, code or device, provided: (1) The
206 following disclosures are made, in writing, on such card, code or
207 device [~~: (A) That~~] and any packaging material related to such card,
208 code or device: (A) A statement, disclosed with equal prominence and
209 in close proximity to the expiration date, that such card, code or device
210 expires, but that the underlying funds do not expire and that the
211 consumer may contact the issuer for a replacement card, code or
212 device; (B) a toll-free telephone number and an Internet web site
213 address, if one is maintained, that a holder of a general-use prepaid
214 card may use to obtain a comprehensive list of all charges, fees and
215 expenses to be borne by the holder of such card; and [(B)] (C) a toll-free
216 telephone number and an Internet web site address, if one is
217 maintained, that a holder of a general-use prepaid card may use to
218 obtain a replacement card, code or device after such card, code or
219 device expires, provided the remaining balance is not otherwise
220 returned to the holder; (2) no fee or charge is imposed on such holder
221 for replacing the card, code or device or for providing such holder
222 with the remaining balance in some other manner, provided the card,
223 code or device has not been lost or stolen; and (3) the seller of the card,
224 code or device has established policies and procedures to provide
225 consumers a reasonable opportunity to purchase a card, code or device
226 that has not less than five years remaining until the card, code or
227 device expires.

228 (c) A linked prepaid card shall not include an expiration date
229 relative to the underlying funds that are redeemable through the use of
230 the applicable card, code or device. Notwithstanding the provisions of
231 this subsection, a linked prepaid card may include an expiration date
232 with regard to such card, code or device, including an expiration date
233 contemplated by subparagraph (B) of subdivision (2) of subsection (a)
234 of this section, provided: (1) The following disclosures are made, in

235 writing, on such card, code or device [: (A) That] and any packaging
236 material related to such card, code or device: (A) A statement,
237 disclosed with equal prominence and in close proximity to the
238 expiration date, that such card, code or device expires, but that the
239 underlying funds do not expire, provided the purchaser of or
240 individual who increases or reloads funds onto such card, code or
241 device has not set an expiration date in accordance with said
242 subparagraph (B), and that the consumer may contact the issuer for a
243 replacement card, code or device; (B) a toll-free telephone number and
244 an Internet web site address, if one is maintained, that a holder of a
245 linked prepaid card may use to obtain a comprehensive list of all
246 charges, fees and expenses to be borne by the holder of such card; and
247 [(B)] (C) a toll-free telephone number and an Internet web site address,
248 if one is maintained, that a holder of a general-use prepaid card may
249 use to obtain a replacement card, code or device after such card, code
250 or device expires, provided the purchaser of or individual who
251 increases or reloads funds onto such card, code or device has not set an
252 expiration date in accordance with said subparagraph (B); (2) no fee or
253 charge is imposed on such holder for replacing the card, code or device
254 or providing such holder with the remaining balance in some other
255 manner, provided the card, code or device has not been lost or stolen
256 or, if an expiration date has been set in accordance with said
257 subparagraph (B), expired; (3) no fee or charge is imposed on the
258 purchaser of or individual who increases or reloads funds onto the
259 card, code or device for replacing the card, code or device or providing
260 such purchaser or individual with the unexpended balance in some
261 other manner, provided the card, code or device has not been lost or
262 stolen; and (4) the seller of the card, code or device has established
263 policies and procedures to provide consumers a reasonable
264 opportunity to purchase a card, code or device that has not less than
265 five years remaining until the card, code or device expires, unless the
266 purchaser of or individual who increases or reloads funds onto such
267 card, code or device has a financial account that is linked to such card,
268 code or device and sets an expiration date on such card, code or device
269 at not less than ninety days from the date of purchase or increasing or

270 reloading at which time the unexpended balance and any accrued
271 interest on the unexpended balance on such card, code or device shall
272 be transferred to such financial account.

273 (d) For purposes of complying with the disclosure requirements of
274 subdivision (1) of subsections (b) and (c) of this section, [(1)] the issuer
275 of a general-use prepaid card or a linked prepaid card may provide
276 disclosures that are consistent with the applicable provisions of 12 CFR
277 1005.20(e), as from time to time amended. [, and (2) such issuer shall
278 make the disclosure required under subparagraph (A) of subdivision
279 (1) of subsections (b) and (c) of this section with equal prominence and
280 in close proximity to the expiration date on the applicable card, code or
281 device.]

282 Sec. 8. Section 3-65c of the general statutes is repealed and the
283 following is substituted in lieu thereof (*Effective October 1, 2015*):

284 A holder of property subject to this part, or of a gift certificate, as
285 defined in section 3-56a, or a general-use prepaid card, as defined in
286 section 42-460a, as amended by this act, or a linked prepaid card, as
287 defined in section 42-460a, as amended by this act, may not impose on
288 the property a dormancy charge or fee, abandoned property charge or
289 fee, unclaimed property charge or fee, escheat charge or fee, inactivity
290 charge or fee, or any similar charge, fee or penalty for inactivity with
291 respect to the property. Neither the property nor an agreement with
292 respect to the property may contain language suggesting that the
293 property may be subject to such a charge, fee or penalty for inactivity.
294 The provisions of this section shall not apply to property subject to
295 subdivision (1), (2), (3) or (5) of subsection (a) of section 3-57a,
296 provided a holder of any such property may not impose an escheat
297 charge or fee with respect to such property.

298 Sec. 9. Subsection (f) of section 42a-4-406 of the general statutes is
299 repealed and the following is substituted in lieu thereof (*Effective*
300 *October 1, 2015*):

301 (f) Without regard to care or lack of care of either the customer or

302 the bank, a customer who does not within one year after the statement
303 or items are made available to the customer pursuant to subsection (a)
304 discover and report the customer's unauthorized signature on or any
305 alteration on the item is precluded from asserting against the bank the
306 unauthorized signature or alteration. If there is a preclusion under this
307 subsection, the payor bank may not recover for breach of warranty
308 under section 42a-4-208 with respect to the unauthorized signature or
309 alteration to which the preclusion applies. Pursuant to subsection (a) of
310 section 42a-4-103, a bank and a customer may agree to reduce the time
311 frame for discovering and reporting an unauthorized signature or
312 alteration. Such agreement shall not in and of itself constitute a
313 disclaimer of the bank's responsibility for its lack of good faith or
314 failure to exercise ordinary care or limit the measure of damages for
315 the lack or failure.

316 Sec. 10. Subsection (a) of section 49-31p of the general statutes is
317 repealed and the following is substituted in lieu thereof (*Effective*
318 *October 1, 2015*):

319 (a) In the case of any foreclosure on a federally-related mortgage
320 loan or on any dwelling or residential real property that has a return
321 date on or after July 13, 2011, [but not later than December 31, 2017,]
322 any immediate successor in interest in such property pursuant to the
323 foreclosure shall assume such interest subject to (1) the provision, by
324 such successor in interest, of a notice to vacate to any bona fide tenant
325 not less than ninety days before the effective date of such notice; and
326 (2) the rights of any bona fide tenant, as of the date absolute title vests
327 in such successor in interest (A) under any bona fide lease entered into
328 before such date to occupy the premises until the end of the remaining
329 term of the lease, except that a successor in interest may terminate a
330 lease effective on the date of sale of the unit to a purchaser who will
331 occupy the unit as a primary residence, subject to the receipt by the
332 tenant of the ninety-day notice under subdivision (1) of this subsection;
333 or (B) without a lease or with a lease terminable at will under state law,
334 subject to the receipt by the tenant of the ninety-day notice under
335 subdivision (1) of this subsection, except that nothing under this

336 section shall affect the requirements for termination of any federally
337 subsidized or state-subsidized tenancy or of any state or local law that
338 provides longer time periods or other additional protections for
339 tenants.

340 Sec. 11. Section 49-31q of the general statutes is repealed and the
341 following is substituted in lieu thereof (*Effective October 1, 2015*):

342 (a) [On or before December 31, 2017, in] In the case of an owner who
343 is an immediate successor in interest pursuant to foreclosure during
344 the term of a lease, vacating the property prior to sale shall not
345 constitute other good cause for terminating the lease of a tenant who is
346 a recipient of assistance under 42 USC 1437f(o), the federal Housing
347 Choice Voucher Program, except that the owner may terminate the
348 tenancy effective on the date of transfer of the unit to the owner if the
349 owner (1) will occupy the unit as a primary residence, and (2) has
350 provided the tenant a notice to vacate at least ninety days before the
351 effective date of such notice.

352 (b) [On or before December 31, 2017, in] In the case of any
353 foreclosure on any federally-related mortgage loan, as that term is
354 defined in 12 USC 2602(1), the Real Estate Settlement Procedures Act
355 of 1974, or on any residential real property in which a recipient of
356 assistance under 42 USC 1437(o), the federal Housing Choice Voucher
357 Program, resides, the immediate successor in interest in such property
358 pursuant to the foreclosure shall assume such interest subject to the
359 lease between the prior owner and the tenant and to the housing
360 assistance payments contract between the prior owner and the public
361 housing agency for the occupied unit, except that this provision and
362 the provisions related to foreclosure in subsection (a) of this section
363 shall not affect any state or local law that provides longer time periods
364 or other additional protections for tenants.

365 Sec. 12. Section 49-31u of the general statutes is repealed. (*Effective*
366 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	36a-719h
Sec. 3	<i>July 1, 2015</i>	New section
Sec. 4	<i>July 1, 2015</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>July 1, 2016</i>	New section
Sec. 7	<i>October 1, 2015</i>	42-460a
Sec. 8	<i>October 1, 2015</i>	3-65c
Sec. 9	<i>October 1, 2015</i>	42a-4-406(f)
Sec. 10	<i>October 1, 2015</i>	49-31p(a)
Sec. 11	<i>October 1, 2015</i>	49-31q
Sec. 12	<i>from passage</i>	Repealer section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$
Banking Dept.	GF - Potential Cost	Under 5,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the Department of Banking (DOB) to conduct three studies, within available appropriations, and report to the General Assembly. As the department has expertise in these areas, there is no fiscal impact.

The bill also requires that the agency develop a brochure for Connecticut bank and credit union customers seeking to open an account without a Social Security number, post the brochure on the agency website and prepare multilingual versions of the same brochure. To provide the multilingual versions the agency would incur a cost of under \$5,000 in FY 16 for translating. It should be noted that the bill requires that the multilingual translations be provided within available appropriations. It does not appear that this mandates that the agency perform the activity regardless of available funding, therefore the cost described above is potential.

The bill also makes various changes to transactions between private entities and individuals which result in no fiscal impact to the state or municipalities.

House "A" strikes the underlying bill and its associated fiscal

impact and replaces it with provisions that result in the impact described above.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6801 (as amended by House "A")******AN ACT CONCERNING CROWDFUNDING, PROHIBITED ACTS OF MORTGAGE SERVICERS, SMALL BUSINESS LENDING, ALTERNATIVE FORMS OF IDENTIFICATION FOR OPENING BANK ACCOUNTS, REVERSE MORTGAGES AND DISCLOSURES FOR PREPAID CARDS.*****SUMMARY:**

This bill makes changes in sections of the banking statutes that relate to reverse annuity mortgage loans, general-use and linked prepaid cards, foreclosures, and mortgage servicers.

It establishes counseling requirements that must be met before any entity may (1) accept a final and complete reverse annuity mortgage loan application or (2) assess any fees for such mortgage (see BACKGROUND). Under the bill such entities must, among other things:

1. inform prospective applicants of the counseling requirement and provide them with a (a) list of three independent housing counseling agencies approved by the U.S. Department of Housing and Urban Development (HUD) and (b) worksheet of issues to consider;
2. receive certification from the prospective applicant that (a) he or she received the required counseling and (b) either the loan origination or the counseling was done in person; and
3. keep the certification for the term of the loan.

The bill creates an additional condition under which general-use and linked prepaid cards may include an expiration date (see BACKGROUND). It (1) adds this condition to the written disclosures

required on the cards and (2) makes the disclosure requirements also applicable to the cards' packaging material. The bill exempts linked prepaid cards from inactivity fees as is already the case for general-use prepaid cards.

The bill requires the Banking Department, within available appropriations, to conduct studies on (1) crowdfunding, (2) small business lending, and (3) alternative banking identification. The department must report its findings to specified legislative committees by January 1, 2016. The bill also requires the Banking Department, by January 1, 2016, to develop and make available a plain language and easily readable and understandable multilingual brochure on verification procedures for alternative forms of banking identification.

It eliminates a requirement that a mortgagee (lender) provide a certificate of good standing to a mortgagor (borrower) who has completed the foreclosure mediation program. It also extends the laws that provide protections to certain tenants of foreclosed homes, which under current law are applicable through December 31, 2017.

The bill specifically allows a bank and a customer to agree to reduce the time frame for discovering and reporting fraud.

The bill makes technical changes to the statutes that govern mortgage servicers' prohibited acts (see BACKGROUND). It also makes other minor technical and conforming changes.

*House Amendment "A" replaces the underlying bill with similar provisions. In so doing, the amendment extends existing law's protections to certain tenants of foreclosed properties, removes provisions in the original bill (File 178) on penalties related to reverse mortgage transactions, adds provisions related to a bank customer's look-back period to discover and report fraud, and requires the Banking Department to develop a multilingual brochure.

EFFECTIVE DATE: October 1, 2015, except the provisions on (1) reverse mortgages are effective July 1, 2016 (2) the Banking

Department's studies are effective July 1, 2015; and (3) the Banking Department's multilingual brochure and the mortgagor's certificate of good standing are effective upon passage.

§ 6 — REVERSE ANNUITY MORTGAGES

A reverse annuity mortgage allows elderly homeowners to convert accumulated home equity into liquid assets. The loans are generally (1) paid to the borrower monthly and (2) repaid upon death or when the home is sold or vacated.

Counseling Requirement

The bill establishes counseling requirements that must be met before any entity, including a Connecticut bank or credit union, may (1) accept a final and complete reverse annuity mortgage loan application or (2) assess any fees for such mortgage. (Presumably "entity" refers to a federally or state-chartered prospective mortgagee.)

Counseling Information for Prospective Applicant

Under the bill, the entity must inform a prospective applicant of the counseling requirement and provide the prospective applicant with a (1) list of at least three HUD-approved independent housing counseling agencies and (2) worksheet containing issues the prospective applicant is advised to consider and discuss with the counselor (see related federal law in BACKGROUND).

(Presumably each lender will develop its own worksheet; the bill does not specify whether it is a uniform worksheet.)

Counseling Certification

Certification. The prospective applicant or his or her authorized representative must provide the entity with a signed certification that the (1) applicant received the required counseling and (2) loan origination or counseling session occurred in person. Under the bill, if the counseling session is not held in person, it must be conducted by telephone.

The certification must include the meeting date and the name, address, telephone number, and signature of the (1) prospective applicant and (2) counselor or loan originator. (Presumably each prospective applicant will create his or her counseling certificate; the bill does not prescribe a uniform certification form.)

Record Retention. The lender must keep the certification in an accurate, reproducible, and accessible format for the term of the loan.

Counseling Agency's Compensation

Under the bill, a lender or any other person or entity involved in originating or servicing the loan may not compensate the counseling agency.

§§ 7 & 8 — GENERAL-USE AND LINKED PREPAID CARDS

Disclosure Requirements

The bill creates an additional condition under which general-use and linked prepaid cards may include an expiration date and adds it to the disclosures required on the cards.

Under existing law, a general-use or linked prepaid card cannot have an expiration date unless, among other things, it discloses in writing on the card (1) that the card, but not the underlying funds, expires; (2) that the consumer may contact the issuer for a replacement card; and (3) a toll-free telephone number and an Internet website address, if one is maintained, that a card holder may use to obtain a replacement card after it expires. The bill also requires the disclosure of a toll-free telephone number and an Internet website address, if one is maintained, that a card holder may use to obtain a comprehensive list of all charges, fees, and expenses associated with the card.

The bill makes the required written disclosures on general-use and linked prepaid cards also applicable to the cards' packaging material. By law, the card holders must make the disclosures with equal prominence and in close proximity to the expiration date on the card.

Inactivity Charges or Fees

Under existing law a general-use prepaid card may not be subject to inactivity charges or fees. The bill extends this exemption to linked prepaid cards.

§§ 1, 3 & 4 — BANKING DEPARTMENT STUDIES

The bill requires the department to conduct studies on (1) crowdfunding, (2) small business lending, and (3) alternative banking identification.

§ 1 — Crowdfunding

The bill requires the commissioner, within available appropriations, to study other states' legislation on crowdfunding restrictions to provide small businesses and start-up companies with additional funding options. "Crowdfunding" is the practice of funding a venture by raising small amounts of money from a large number of people. The study must include an overview of other states' crowdfunding legislation and recommendations for implementing such legislation in Connecticut.

The commissioner must report to the Banking and Commerce committees, by January 1, 2016, with the overview of other states' laws and recommendations for legislation.

§ 3 — Small Business Lending

The bill requires the Banking Department, in consultation with the Department of Economic and Community Development (DECD), to conduct a study of small business lending in the state. The department must conduct the study within available appropriations and include in it the feasibility of:

1. establishing a state-run business and industrial development corporation;
2. creating mechanisms to increase small business lending to promote and finance small businesses; and
3. forming a partnership between Connecticut banks and credit

unions and any state agency, quasi-public agency, or U.S. nonprofit organization to increase access to credit for small businesses in underserved communities or those with high employment.

The commissioner must report the findings to the Banking and Finance committees by January 1, 2016.

§ 4 — *Alternative Banking Identification*

The bill requires the Banking Department, within available appropriations, to conduct a study of the feasibility of allowing:

1. Connecticut banks and Connecticut credit unions to accept alternative forms of identification (e.g., an IRS-issued Individual Taxpayer Identification Number, a state-issued identification, or foreign documents) to allow a person without a Social Security number to open accounts at such banks or credit unions; and
2. the banking commissioner to consider such practice as a factor when conducting a bank's or credit union's community reinvestment performance evaluation (i.e., a bank's or credit union's performance in helping to meet the credit needs of the entire community, including low- and moderate-income neighborhoods).

The banking commissioner must report the findings to the Banking Committee by January 1, 2016.

§ 5 — DEPARTMENT OF BANKING MULTILINGUAL BROCHURE

The bill requires the Banking Department, by January 1, 2016, to develop a plain language and easily readable and understandable brochure containing examples of verification procedures at Connecticut banks and Connecticut credit unions for customers seeking to open an account without a Social Security number. The brochure must include:

1. a list of the Connecticut banks and Connecticut credit unions

that accept alternative forms of identification and that agree to be included on the list; and

2. other summary information on each bank's or credit union's verification procedures that the department deems necessary.

Under the bill, the department (1) may distribute the brochure to each bank and credit union; (2) must post it on the department's website; and (3) must, within available appropriations, prepare appropriate multilingual versions of the brochure for Spanish-speaking and other non-English-speaking customers. (The bill does not specify the other languages in which the brochure must be made available.)

§ 12 — FORECLOSURE MEDIATION PROGRAM

Certificate of Good Standing

The state's foreclosure mediation program determines whether parties can reach an agreement to avoid foreclosure. The program uses the Judicial Branch's foreclosure mediators to conduct mediation sessions between the mortgagee and the mortgagor in a statutorily prescribed timeframe.

The bill eliminates a requirement for a mortgagee to provide a certificate of good standing to a mortgagor who has completed the program.

§§ 10 & 11 — PROTECTIONS FOR TENANTS OF FORECLOSED HOMES

The bill extends existing law's protections to certain tenants of foreclosed homes by eliminating the December 31, 2017 sunset date.

Tenants of Foreclosed Homes

By law, an immediate successor in interest to a foreclosed property takes the property subject to the rights of bona fide tenants as of the date absolute title vests in the successor in interest. A successor in interest must provide tenants with a notice to vacate 90 days before the notice is effective. Under the law, tenants with a lease entered into

before absolute title vests in the successor must generally be allowed to remain until the end of the lease term but may be evicted under certain circumstances. Under current law, these protections apply to foreclosures with return dates through December 31, 2017. The bill eliminates the sunset date and makes this protection applicable to foreclosures with return dates beyond December 31, 2017.

Section 8 Tenants

The law limits the circumstances under which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a Section 8 tenant (i.e., a tenant who is receiving assistance under the federal Housing Choice Voucher Program). Under current law, on or before December 31, 2017, an owner may terminate the tenancy on the date of taking ownership, if the owner (1) will occupy the unit as his or her primary residence and (2) has provided the tenant a notice to vacate at least 90 days before its effective date. The bill extends this tenant protection by removing the December 31, 2017 sunset date.

Under current law, on or before December 31, 2017, for foreclosures involving federally related mortgage loans or any residential property occupied by a Section 8 tenant, the immediate successor in interest takes the property subject to the (1) lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency that administers the program. The bill extends this tenant protection by removing the December 31, 2017 sunset date.

§ 9 — LOOK-BACK PERIOD TO DISCOVER AND REPORT FRAUD

The bill specifically allows a bank and a customer to agree to reduce the time frame for discovering and reporting an unauthorized signature or alteration. Under the bill, as under existing law, such agreement does not negate the bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages.

The law generally precludes a customer from asserting a claim of an unauthorized signature or alteration against a bank, if he or she, within one year after his or her statement is available, fails to discover and report an unauthorized signature or any alteration on a statement item.

BACKGROUND

Reverse Annuity Mortgage Loan

A “reverse annuity mortgage loan” is a mortgage loan in which the mortgagee pays the mortgagor in installments. If they agree, and at the option of the mortgagee, the advances may terminate and the entire unpaid balance of the loan plus accrued interest may become due and payable when one of the following occurs:

1. the death of the last surviving borrower (see related federal case below);
2. the sale or other transfer of the real estate securing the loan to a person other than one of the original borrowers; or
3. any other occurrence, stated in the deed, that materially decreases the value of the property securing the loan or which will have the likely effect of causing the loan not to be repaid (CGS § 36a-265(4)).

Mortgage Servicer

A “mortgage servicer” is anyone who services (1) residential mortgage loans, (2) home equity conversion mortgages, and (3) reverse mortgages (CGS § 36a-715).

General-Use Prepaid Cards

A “general-use prepaid card” is a card, code, or other device (1) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment and (2) redeemable upon presentation at multiple, unaffiliated merchants

for goods or services, or usable at automated teller machines (12 CFR 1005.20(a)(3)).

General-use prepaid cards do not include a card that is:

1. usable only for telephone services;
2. reloadable and not marketed or labeled as a gift card or gift certificate;
3. a loyalty, award, or promotional gift card;
4. not marketed to the general public;
5. issued in paper form only; or
6. redeemable solely for admission to events or venues at a particular location or group of affiliated locations, or to obtain goods or services in conjunction with admission to such events or venues (12 CFR 1005.20(b)).

Linked Prepaid Cards

A “linked prepaid card” is a type of general-use prepaid card that allows the card purchaser or person who increases or reloads funds onto the card (the customer) to:

1. recover the unused balance and the interest earned on the unused balance through a financial account linked to the card;
2. set an expiration date at least 90 days from the date of purchase or increasing or reloading funds; and
3. transfer the unused balance to a bank offering a higher yield and full insurance from the Federal Deposit Insurance Corporation until the funds are exhausted or until the card expires, if the customer has a financial account linked to the card (CGS § 42-460a(2)).

Related Federal Laws

Federal regulation requires HUD to establish and maintain a list of reverse mortgage counselors. The counselors must meet specified qualification standards and follow uniform counseling protocol (24 CFR § 206.300, et. seq.). Under federal regulation, at the time of the initial contact, the mortgagee must give the prospective mortgagor a list of the names, addresses, and telephone numbers of HUD-approved reverse mortgage counselors (24 CFR § 206.41). Qualified counselors must discuss certain information with prospective mortgagors, including:

1. other options available to the homeowner;
2. the financial implications of entering into a reverse mortgage;
3. disclosure that a reverse mortgage may have tax consequences, affect eligibility for assistance under federal and state programs, and have an impact on the estate and heirs of the homeowner (12 USC § 1715z-20(f)); and
4. the requirement that a non-borrowing spouse obtain ownership of the property or other legal right to remain in the house after the death of the last surviving mortgagor (HUD Mortgagee Letter 2014-07).

Related Federal Case. The U.S. District Court, District of Columbia, struck down federal reverse mortgage regulation that allowed HUD to insure reverse mortgages that became payable in full after a mortgagor's death regardless of whether there was a surviving non-borrowing spouse (*Bennett v. Donovan*, 4 F.Supp.3d 5, (2013)).

HUD amended its reverse mortgage regulations to provide protections against the displacement of a surviving spouse under specified conditions.

The federal requirements apply to all HUD-insured reverse mortgages.

Related Bills

sHB 6752 (File 117), reported favorably by the Banking Committee, extends the state's foreclosure mediation program for three years, until July 1, 2019.

HB 6762 (File 27), reported favorably by the Housing Committee, makes the state's foreclosure mediation program permanent.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/05/2015)

Judiciary Committee

Joint Favorable

Yea 36 Nay 4 (04/20/2015)

Commerce Committee

Joint Favorable

Yea 19 Nay 1 (04/28/2015)